THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 26-12-2005

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WRIT PETITION No.26919 OF 2005

BETWEEN:

P.Rambabu . . .Petitioner

And

ONGC, Dehradun, and others . . .Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.26919 OF 2005

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O R D E R:

The petitioner challenges the order, dated 03-11-2005, passed by the third respondent. The matter relates to the payment of subsistence allowance to the petitioner. Disciplinary proceedings were initiated against the petitioner, an employee of the Oil and Natural Gas Commission, by issuing a charge sheet, dated 28-03-2003. Earlier to that, he was placed under suspension on 31-07-2002. Prosecution was also initiated against him. He filed WP.No.20392 of 2005 challenging a charge memo, dated
28-03-2003, and additional charge memo, dated 09-03-2004. Several contentions were urged and one of the grievances made by him is that he was not being paid the subsistence allowance. The writ petition was disposed of on 16-09-2005. This Court refused to interdict the disciplinary proceedings and directed conclusion of the same, within a period of three months from the date of receipt of a copy of the said order. As regards the grievance of the petitioner in the matter of payment of subsistence allowance, the respondents were required to pass appropriate orders. It was in this context, that the impugned order was passed, indicating that the petitioner did not comply with the conditions indicated under Rule 14 of ONGC (Pay and Allowance) Regulations/Rules, 1972.

Learned counsel for the petitioner submits that though the petitioner had attended on every date of enquiry, the respondents are taking a hyper technical view of the matter, in insisting that the petitioner must have been present on 25th of every month. He also submits that the petitioner is not gainfully

employed elsewhere and that there was no justification in not paying the subsistence allowance.

Learned standing counsel for the respondents, on the other hand, submits that it is the petitioner that has to squarely blame himself for the present state of affairs. According to him, the petitioner did not choose either to be present on 25th of every month or to submit non-employment certificate.

It is not in dispute that an employee would be entitled to be paid the subsistence allowance, if he is placed under suspension. For that purpose, Rule 14 of ONGC (Pay and Allowance) Regulations/Rules, 1972, mandates that a suspended employee must file a certificate of non-employment on the pay day, and shall also present himself at the head quarters on 25th of every month. The petitioner does not dispute that he did not comply with those two conditions. The fact that he has been attended the enquiry on various dates cannot be treated as compliance with the condition, as to his presence in the head quarter on 25th of every month. Further, the certificate issued by the petitioner himself, stating that he was not gainfully employed in any other organization, has its own significance and the petitioner must not have found any difficulty in submitting the same. It is represented that such a certificate has been filed only in the recent past, after the impugned order came to be passed. Therefore, this Court does not find any basis to interfere with the impugned order.

The writ petition is accordingly dismissed. Inasmuch as the petitioner is said to have filed a certificate, the same shall be taken into account by the respondents, who in turn, shall take necessary action in accordance with law. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

26th DECEMBER, 2005.

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